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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

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JEFF HATCH-MILLER Chairman
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AZ Corporation Commission
Director Of Utilities

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
ACCIPITER COMMUNICATIONS, INC., FOR AN
EXTENSION OF ITS EXISTING CERTIFICATE
OF CONVENIENCE AND NECESSITY.

DOCKET NO. T-02847A-03-0655

DECISION NO. 67675

OPINION AND ORDER

DATE OF HEARING:

January 14, 2005

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Dwight D. Nodes

APPEARANCES:

Mr. Jeffrey W. Crockett, SNELL & WILMER,
LLP, on behalf of Accipiter Communications,
Inc.;

Mr. Norman Curtright, on behalf of Qwest
Corporation;

Mr. Patrick J. Black, FENNEMORE CRAIG, on
behalf of Belmont LKY 20K, Limited Liability
Limited Partnership; and

Ms. Maureen A. Scott, Staff Attorney, Legal
Division, on behalf of the Utilities Division of
the Arizona Corporation Commission.

BY THE COMMISSION:

On September 8, 2003, Accipiter Communications, Inc. ("Accipiter" or "Company") filed an application with the Arizona Corporation Commission ("Commission") seeking to extend its Certificate of Convenience and Necessity ("CC&N") in Maricopa County, Arizona.

On September 24, 2003, Qwest Corporation ("Qwest") filed a Motion to Intervene. By Procedural Order issued January 8, 2004, Qwest's Motion was granted.

On October 3, 2003, the Commission's Utilities Division Staff ("Staff") filed a letter of deficiency.

On July 14, 2004, Accipiter filed additional information in support of its application.

1 On July 15, 2004, Accipiter filed revised information.

2 On July 16, 2004, Accipiter filed additional revisions to its supplemental filing.

3 On August 13, 2004, Staff filed its Sufficiency Letter indicating that Accipiter's application
4 met the sufficiency requirements of A.A.C. R14-2-502 and R14-2-510(E).

5 On November 9, 2004, Staff filed its Staff Report recommending approval of the application
6 subject to certain conditions.

7 By Procedural Order issued November 16, 2004, a hearing was scheduled for December 13,
8 2004 and Accipiter was directed to mail notice of the hearing to all property owners in the affected
9 area, and to publish notice of the hearing, by November 29, 2004.

10 On December 10, 2004, Accipiter filed a Motion to Continue Hearing Date and Modify
11 Procedural Schedule because the Company had not completed the notice requirements set forth in the
12 November 16, 2004 Procedural Order.

13 By Procedural Order issued December 10, 2004, the hearing was rescheduled for January 14,
14 2005 and Accipiter was directed to mail notice of the hearing to all property owners in the affected
15 area, and to publish notice of the hearing, by December 23, 2004.

16 Accipiter filed Proof of Publication and mailing on December 23, 2004.

17 On January 7, 2005, Belmont LKY 20K Limited Liability Limited Partnership, and other
18 entities that own a significant amount of land in the requested CC&N extension area (collectively
19 "Belmont LKY"), filed a Motion to Intervene. Belmont LKY's intervention was granted at the
20 January 14, 2005 hearing.

21 On January 14, 2005, Accipiter filed a Revised Legal Description of the proposed extension
22 area.

23 On January 14, 2005, Cox Arizona Telecom, LLC ("Cox") filed "Comments" regarding
24 certain concerns it had with Staff's recommendations in the Staff Report.

25 On January 14, 2005, a hearing was convened before a duly authorized Administrative Law
26 Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the
27 matter was taken under advisement pending submission of certain late-filed exhibits, and issuance of
28 a Recommended Opinion and Order.

1 On January 20, 2005, Accipiter submitted late-filed Exhibit A-6, a map depicting the
2 Company's current and requested CC&N extension area.

3 On January 25, 2005, Staff filed a Second Revised Legal Description reflecting the CC&N
4 extension area sought by the Company.

5 * * * * *

6 Having considered the entire record herein and being fully advised in the premises, the
7 Commission finds, concludes, and orders that:

8 **FINDINGS OF FACT**

9 **Overview of Application**

10 1. Accipiter is a Nevada corporation authorized to conduct business in Arizona as a
11 foreign corporation. Pursuant to Decision No. 59346 (October 11, 1995), Accipiter was initially
12 granted a CC&N to provide local exchange telecommunication services in portions of Maricopa and
13 Yavapai Counties, including the Lake Pleasant Regional Park and Castle Hot Springs areas.

14 2. On September 8, 2003, Accipiter filed an application to extend its CC&N to include
15 approximately 393 square miles in and around the cities of Buckeye and Surprise, Arizona, including
16 unincorporated areas in northwest Maricopa County. The requested extension area is currently
17 unserved and is located southwest of, but not contiguous to, Accipiter's existing CC&N area. The
18 proposed extension area would be identified as Accipiter's "Buckeye Exchange," but would remain
19 within the Company's Lake Pleasant rate center (see discussion below).

20 3. Accipiter's existing Lake Pleasant Exchange covers an area of approximately 600
21 square miles¹. The Company currently serves approximately 80 customers with just over 200 access
22 lines (Tr. 23).

23 4. Staff deemed Accipiter's application to be deficient by letter issued October 3, 2003.
24 Accipiter supplemented its application with filings submitted on July 14, 15, and 16, 2004. On
25 August 13, 2004, Staff filed a Letter of Sufficiency for Accipiter's application.

26
27
28 ¹ In Decision No. 67574 (February 15, 2005), Accipiter's CC&N was extended to include an area adjacent to its existing
CC&N known as the Vistancia development.

1 5. By Procedural Order issued November 16, 2004, a hearing was scheduled for
2 December 13, 2004 and Accipiter was directed to mail notice of the hearing to all property owners in
3 the affected area, and to publish notice of the hearing. By Procedural Order issued December 10,
4 2004, the hearing date was continued to January 14, 2005 because the Company had not completed
5 the notice requirements. Accipiter filed Proof of Publication and mailing on December 23, 2004 (Ex.
6 A-4).

7 6. The hearing was held as scheduled on January 14, 2005. Accipiter's President and
8 CEO, Charles Gowder, testified in support of the Company's application. Staff Engineer Richard
9 Boyles testified regarding Staff's recommendations.

10 **Growth and Infrastructure**

11 7. The proposed extension area is a relatively large rural geographic area that is currently
12 "unserved" territory (*i.e.*, not contained within the service boundary of any incumbent local exchange
13 company ("ILEC")). In general terms, the extension area is located north and west of the White Tank
14 Mountains, south of Wickenburg, north of the I-10 freeway, and as far west as Tonopah (Ex. S-1, at
15 3; Ex. A-6).

16 8. Based on its site visit, Staff found the extension area to be primarily undeveloped land
17 with mostly unimproved roads. Accipiter identified Coyote Ridge, the Crozier development, and
18 Whispering Ranch as developments where homes have already been constructed, and the Company
19 has received requests for service from 39 residents in the Crozier and Whispering Ranch
20 developments (Tr. 23). Accipiter projects more than 700 lines will be established in those two
21 developments within 5 years (Ex. A-2).

22 9. Although the extension area is currently sparsely populated, several large
23 developments are expected to commence construction within the next 5 years. According to the
24 Company's projections, by the end of its five-year planning period, Accipiter will have 1,500 lines in
25 a 2,400 acre Del Webb property; 500 lines in a 20,350 acre development called Festival Ranch; 1,000
26 lines in a 5,000 acre property owned by GW Holdings; 500 lines in a 24,700 acre property called Sun
27 Valley Ranch; and 1,250 lines in a 13,800 acre property in Surprise (*Id.*). Another large development
28 called Douglas Ranch is not expected to begin development until 2011 (*Id.* at A-7).

1 10. In order to serve the proposed extension area, Accipiter plans to install 540 miles of
2 fiber-optic cable to serve subscriber growth and provide transport facilities. The Company's design
3 calls for a fiber to the premise ("FTTP") infrastructure for master planned developments and clusters
4 of customers. In lower density areas, Accipiter would employ alternative forms of technology such
5 as digital loop carrier electronics with copper distribution cable, or fixed wireless (Ex. S-1, at 4).
6 Accipiter's infrastructure design assumes the addition of approximately 5,000 customers from 2005
7 through 2009, at a cost of more than \$19 million. Staff states that the Company's infrastructure
8 design and estimated costs appear to be consistent with sound engineering practices that would be
9 utilized by local exchange carriers (*Id.* at 5).

10 Financing

11 11. Accipiter plans to obtain financing for construction of infrastructure in the extension
12 area from the Rural Utility Service ("RUS"). The Company has applied to RUS for initial financing
13 of approximately \$21 million, and has received preliminary approval of its application. The
14 Company projects that the Whispering Ranch and Crozier developments can be served with an initial
15 investment of approximately \$6.4 million. Accipiter's CEO testified that the proposed \$21 million
16 RUS loan should be sufficient to extend infrastructure to the extension area sufficient to serve 5,000
17 customers over its five-year planning horizon (Tr. 47-48).

18 12. The Company intends to apply for Commission approval of the RUS financing in the
19 near future. The RUS loan proceeds would be drawn on an as-needed basis and Accipiter believes it
20 will have sufficient capital to service the RUS debt (Tr. 46-47). Staff has done no analysis of
21 coverage ratios in this proceeding but will analyze the Company's financial situation in the upcoming
22 financing docket (Tr. 73). Staff recommends that the CC&N extension for the new Buckeye
23 Exchange should be conditioned on Accipiter receiving Commission approval of a financing
24 application within one year of the Decision in this docket. Under Staff's recommendation, failure to
25 obtain Commission approval of the financing within one year would render the CC&N extension null
26 and void without further action by the Commission (Ex. S-1, at 5).

27 Local Calling Area and Area Code

28 13. Based on its evaluation of the extension area, Staff determined that a "community of

1 interest” between the extension area exists currently, and will continue to exist as the extension area
2 is developed, because customers in the extension area will look to the Phoenix Metro area for
3 virtually all services, including government, schools, health services, public safety and emergency
4 services, and retail businesses (*Id.*). Staff points out that more than half of the proposed extension
5 area is located within the current city boundaries of Buckeye and Surprise and a strong community of
6 interest would continue to exist for customers in those communities. Thus, Staff believes the public
7 interest would be served by inclusion of the proposed extension area in the Phoenix Metro local
8 calling area (*Id.* at 6).

9 14. In order to accomplish inclusion in the Phoenix Metro local calling area, Staff
10 recommends that the extension area be designated as a non-contiguous part of Accipiter’s existing
11 Lake Pleasant rate center. Although parts of the extension area are adjacent to Qwest’s 623 area code
12 boundary, Staff believes the 928 area code should be assigned to the extension area. According to
13 Staff, the area encompassed by the 623 area code was defined by Qwest exchange boundaries when
14 area code relief split the Phoenix Metro local calling area into three geographic area codes. Staff
15 claims that inclusion of the extension area within the 928 area code is consistent with Decision No.
16 64843 (which added Accipiter’s service area to the Phoenix Metro local calling area) and promotes
17 conservation of numbering resources, especially if numbers for Accipiter customers in the extension
18 area are assigned from the Company’s existing 928-501 NPA/NXX resources (*Id.* at 7).

19 **Cox Petition to Create New Rate Center**

20 15. On July 30, 2004, Cox filed in Docket No. T-03471A-04-0556 a Petition to Create
21 New Rate Center. In its Petition, Cox requested that the Commission create a new rate center in the
22 same area for which Accipiter seeks a CC&N extension in this docket, with one exception². In the
23 Staff Report, Staff indicated that if the Commission approves Accipiter’s application in this docket,
24 Staff expects that Cox would withdraw its Petition because the area would become part of a rate
25 center, thereby rendering moot the issue raised by Cox’s Petition (*Id.*).

26 16. At the January 14, 2005 hearing, Cox’s representative, Mark DiNunzio, offered public
27

28 ² The exception is that Cox’s Petition included the wilderness areas that were excluded by Accipiter’s application.

comment expressing support for approval of the Accipiter application, with some minor modifications to Staff's recommendation. Cox also filed Comments on January 14, 2005 consistent with Mr. DiNunzio's statement at the hearing. Specifically, Cox requested that if Accipiter's CC&N extension becomes null and void due to Accipiter's failure to get financing approval from RUS or the Commission, the expanded Lake Pleasant rate center with local calling to the Phoenix Metro area should remain intact. Cox also requested that Accipiter and Qwest should be required to work with Cox and other CLECs to ensure that the expanded Lake Pleasant rate center is included in the local calling agreements between Accipiter and Qwest for the Phoenix Metro local calling area (Tr. 9-12; Cox Comments at 2).

17. At the hearing, Staff introduced Exhibit S-2 which set forth language proposed by Staff to address the concerns expressed by Cox. Staff recommends that the following language be included in the Order issued by the Commission in this proceeding: "In the event that Accipiter's financing application is not approved by the Commission, the rate center designation shall remain in place until either the area is assigned to another ILEC or the Commission adopts an order on Cox's pending Petition to Create a New Rate Center, Docket No. T-03471A-04-0556." Staff witness Richard Boyles added that Cox should not withdraw its Petition until such time as Accipiter's upcoming financing application is approved by the Commission (Tr. 58).

Contiguous Unserved Area

18. In the Staff Report, Staff stated that Accipiter's proposed extension area did not extend to the west far enough to meet the existing service area boundaries for Arizona Telephone and Table Top Telephone. The original proposed extension area also did not meet the Qwest boundary area to the southeast. Staff expressed concern that the Accipiter extension area would leave isolated pockets of unserved territory (Ex. S-1, at 7).

19. Accipiter explained that the excluded areas to the west of the proposed extension include two county parks, Hummingbird Springs Wilderness and Big Horn Mountain Wilderness, which are preserved wilderness areas (Ex. A-2, at 8-9). With respect to the eastern boundary of the proposed extension area, after discussions with Staff the Company agreed to include the area to the east of White Tank Park and west of Qwest's Phoenix Metro service area. However, the extension

1 area would continue to exclude the area in which White Tank Park is located. Accipiter filed an
2 amended legal description on January 14, 2005, in accordance with its agreement with Staff (Ex. A-
3 3).

4 **Franchises and Permits**

5 20. In the Staff Report, Staff recommends that Accipiter be required to apply, within 30
6 days of the effective date of this Decision, for any necessary franchises, licenses, or authorities from
7 Buckeye, Surprise, and Maricopa County. Staff further recommends that the grant of the CC&N
8 extension should be conditioned on Accipiter's receipt of all such franchises, licenses, or authorities
9 within one year from the date of this Decision (Ex. S-1, at 8).

10 **Unserved Area and Public Interest**

11 21. According to Staff, Accipiter has indicated that it is ready, willing and able to provide
12 service to customers in the proposed extension area. The extension area is not within the authorized
13 service area of any incumbent local exchange company and thus wireline telephone service is not
14 currently available in that area. Staff noted that wireless service signals exhibited varying degrees of
15 strength during Staff's site visit (*Id.*).

16 22. Based on its analysis, Staff believes the public interest would be served by granting the
17 requested CC&N extension to Accipiter because it will increase telephone subscribership in Arizona,
18 promote universal service, and enable qualifying customers to obtain service through the Lifeline and
19 Link Up programs. Staff indicated that extending wireline service into the extension area will also
20 reduce health and safety risks associated with living in rural areas through the offering of 911 service
21 and, as development in the area occurs, consumers would benefit from the availability of competitive
22 choices and broadband services (*Id.* at 8-9).

23 23. Staff witness Boyles also testified that granting Accipiter ILEC status for the proposed
24 extension area provides a benefit to potential customers due to Accipiter's status as a rural carrier.
25 Rural carriers depend on federal universal service funds ("FUSF") to compensate for the difference in
26 costs incurred to serve high cost rural customers and revenues received from such customers for
27 service (Tr. 66-69). As a rural carrier receiving funding from RUS, Accipiter would therefore not be
28 permitted to charge customers for construction costs incurred by the Company to extend service.

Belmont LKY Stipulation

24. As discussed above, Belmont LKY was granted intervention in this proceeding based on its interest as the owner of property that it intends to develop in the proposed extension area. Approximately half of the Belmont LKY property is located in the proposed extension area and the other half is located south of the requested extension area (Tr. 32). Prior to the hearing, Accipiter and Belmont LKY negotiated a Stipulation that allows inclusion of the Belmont LKY property in Accipiter's new Buckeye Exchange, subject to the ability of Belmont LKY to be deleted from Accipiter's service area under certain conditions. The Stipulation provides that, for a period of five years, Belmont LKY may seek exclusion from the Accipiter CC&N if it applies to the Commission for deletion accompanied by sufficient documentation showing that another ILEC intends to serve the entirety of the Belmont property. If Belmont LKY has not requested deletion from Accipiter's service area within the five-year timeframe, its inclusion in the CC&N will become permanent (Ex. A-5; Tr. 20-22).

25. Staff's witness testified that, although Staff does not object to adoption of the Stipulation under the facts and circumstances of this case, Staff does not want its acquiescence to be construed as a precedent for agreeing to such agreements in future cases (Tr. 60-61).

Discussion and Resolution

26. We believe that Accipiter's proposed CC&N extension to include a new Buckeye Exchange is reasonable and should be approved, subject to the conditions recommended by Staff and discussed herein. As Staff's witness stated at the hearing, there is no downside to granting the requested CC&N extension to Accipiter because, as the designated ILEC, Accipiter would have an obligation to serve any customers requesting service within its CC&N area. Thus, concerns that may exist with granting a CC&N extension to a water or wastewater utility for a large geographic area are not presented for telecommunications providers because of the ability of competitors to serve the same service area granted to the ILEC (Tr. 74-75).

27. As a rural carrier, Accipiter's ability to serve high cost areas that would otherwise remain unserved for many years promotes the public interest by enabling rural customers the opportunity to receive voice and data services, including calling to the Phoenix Metro local calling

1 area. The benefit of extending telecommunication services to rural areas is more than a hypothetical
2 possibility. At the hearing, an existing Accipiter customer in the Lake Pleasant Exchange, Mr. Joe
3 Hull, offered public comment in support of the Company's application. Mr. Hull stated that he
4 resides in the Castle Hot Springs area north of Lake Pleasant, along with approximately 40 other
5 families. Despite the lack of any paved roads in the area, Mr. Hull indicated that Accipiter provides
6 Castle Hot Springs residents with local calling to the Phoenix Metro area as well as high speed
7 internet service. Mr. Hull claims that Accipiter has consistently delivered on its promises to area
8 residents in providing telecommunication services (Tr. 6-9).

9 28. In addition, customers in the extension area will likely have a choice of providers in
10 the near future based on the interest expressed by Cox in establishing a rate center for the same area.
11 As noted by Staff, establishment of an ILEC in the extension area will also enhance public health and
12 safety by providing access to 911 service and the ability to contact health providers. Subject to the
13 conditions discussed herein, we will approve Accipiter's application for extension of its CC&N.

14 29. With respect to the Belmont LKY Stipulation, we do not believe it is necessary or
15 appropriate to approve that agreement in this proceeding. If an application for deletion or transfer of
16 Accipiter's CC&N for the Belmont LKY property is submitted in the future, we will consider such an
17 application based on the facts presented at that time.

18 CONCLUSIONS OF LAW

19 1. Accipiter is a public service corporation within the meaning of Article XV of the
20 Arizona Constitution and A.R.S. §40-281 *et seq.*

21 2. The Commission has jurisdiction over Accipiter and the subject matter of the
22 application.

23 3. Notice of the application was provided in accordance with law.

24 4. There is a public need and necessity for local exchange telecommunications service in
25 the proposed extension area.

26 5. Accipiter is a fit and proper entity to receive an extension of its local exchange
27 telecommunications service CC&N to include the area more fully described in Attachment A hereto.
28

ORDER

IT IS THEREFORE ORDERED that the application of Accipiter Communications, Inc. for extension of its Certificate of Convenience and Necessity to an area more fully described in Attachment A hereto is hereby granted subject to compliance with the conditions and requirements discussed herein.

IT IS FURTHER ORDERED that, within one year from the effective date of this Decision, Accipiter Communications, Inc. shall obtain RUS financing in an amount sufficient to fund construction of infrastructure necessary to serve the extension area granted herein, and shall apply for and obtain approval from the Commission to incur the necessary RUS debt within the same one year timeframe. Failure to apply for and obtain Commission approval of the RUS financing within one year from the effective date of this Decision shall render the CC&N extension granted herein null and void without further order of the Commission.

IT IS FURTHER ORDERED that, in the event that Accipiter Communications, Inc.'s subsequent financing application is not approved by the Commission, the expanded Lake Pleasant rate center designation shall remain in place until the area is either assigned to another ILEC or the Commission adopts an order on Cox Arizona Telecom, LLC's pending Petition to Create a New Rate Center in Docket No. T-03471A-04-0556.

IT IS FURTHER ORDERED that the CC&N extension area granted to Accipiter Communications, Inc. shall be designated as a non-contiguous part of Accipiter's Lake Pleasant rate center with assignment of a 928 area code.

IT IS FURTHER ORDERED that the CC&N extension area granted to Accipiter Communications, Inc. shall be included in the Phoenix Metro local calling area and Accipiter and Qwest shall work to ensure that the area is included in the existing extended area service agreement between Accipiter and Qwest. Accipiter and Qwest shall also work with any other CLEC that seeks to provide service in the expanded Lake Pleasant rate center to ensure that the extended area is included in the local calling agreements for the Phoenix Metro local calling area.


IT IS FURTHER ORDERED that Accipiter Communications, Inc. shall update its service area map on file with the Commission within 60 days of the effective date of this Decision in



accordance with the revised legal description more fully described in Attachment A hereto.

IT IS FURTHER ORDERED that the CC&N extension area granted to Accipiter Communications, Inc. shall be conditioned on Accipiter filing for, and receiving, all necessary franchises, licenses or authorities within one year of the effective date of this Decision.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

 CHAIRMAN  COMMISSIONER  COMMISSIONER

 COMMISSIONER  COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 9th day of March, 2005.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

SERVICE LIST FOR: ACCIPITER COMMUNICATIONS, INC.

DOCKET NO.: T-02847A-03-0655

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BUCKEYE AREA EXTENSION LEGAL DESCRIPTION

Beginning at a point in Maricopa County, Arizona being at the north quarter corner of Section 15, T-6-N, R-4-W;

Thence south along the Hassayampa River approximately 11 miles to the northern section line of Section 8, T-4-N, R-4-W;

Thence east along the section line approximately 10 ½ miles to northeast corner of Section 12, T-4-N, R-3-W;

Thence south along the section line approximately 1 mile to the southeast corner of Section 12, T-4-N, R-3-W;

Thence east along the section line approximately 1 mile to the northeast corner of Section 18, T-4-N, R-2-W;

Thence south along the section line approximately 2 miles to the southeast corner of Section 19, T-4-N, R-2-W;

Thence east along the section line approximately 2 ½ miles to the north half section line of Section 27, T-4-N, R-2-W;

Thence south along the half section line approximately 1 ½ miles to a center line point of the Beardsley Canal in Section 34, T-4-N, R-2-W;

Thence south along the centerline of the Beardsley Canal approximately 5 ½ miles to the south section line of Section 28, T-3-N, R-2-W;

Thence west along the section line approximately ½ mile to the southwest corner of Section 28, T-3-N, R-2-W;

Thence south along the section line approximately 1 mile to the southeast corner of Section 32, T-3-N, R-2-W;

Thence west along the section line approximately 1 ½ miles to the south half section line of Section 31, T-3-N, R-2-W;

Thence north along the half section line approximately ½ mile to the center point of Section 31, T-3-N, R-2-W;

Thence east along the center line approximately ½ mile to the east half section line of Section 31, T-3-N, R-2-W;

Thence north along the section line approximately 5 ½ miles to the northwest corner of Section 5, T-3-N, R-2-W;

**BUCKEYE AREA EXTENSION
LEGAL DESCRIPTION**

Thence west along the section line approximately 1 mile to the southwest corner of Section 31, T-4-N, R-2-W;

Thence north along the section line approximately 1 mile to the northwest corner of Section 31, T-4-N, R-2-W;

Thence west along the section line approximately 1 mile to the southwest corner of Section 25, T-4-N, R-3-W;

Thence south along the section line approximately 1 mile to the southeast corner of Section 35, T-4-N, R-3-W;

Thence west along the section line approximately 2 miles to the southwest corner of Section 34, T-4-N, R-3-W;

Thence north along the section line approximately 1 mile to the northwest corner of Section 34, T-4-N, R-3-W;

Thence west along the section line approximately 2 miles to the northeast corner of Section 31, T-4-N, R-3-W;

Thence south along the section line approximately 1 mile to the southeast corner of Section 31, T-4-N, R-3-W;

Thence west along the section line approximately ½ miles to the northeast corner of Section 1, T-3-N, R-4-W;

Thence south along the section line approximately 6 miles to the southeast corner of Section 36, T-3-N, R-4-W;

Thence west along the section line approximately 18 miles to the southwest corner of Section 31, T-3-N, R-6-W;

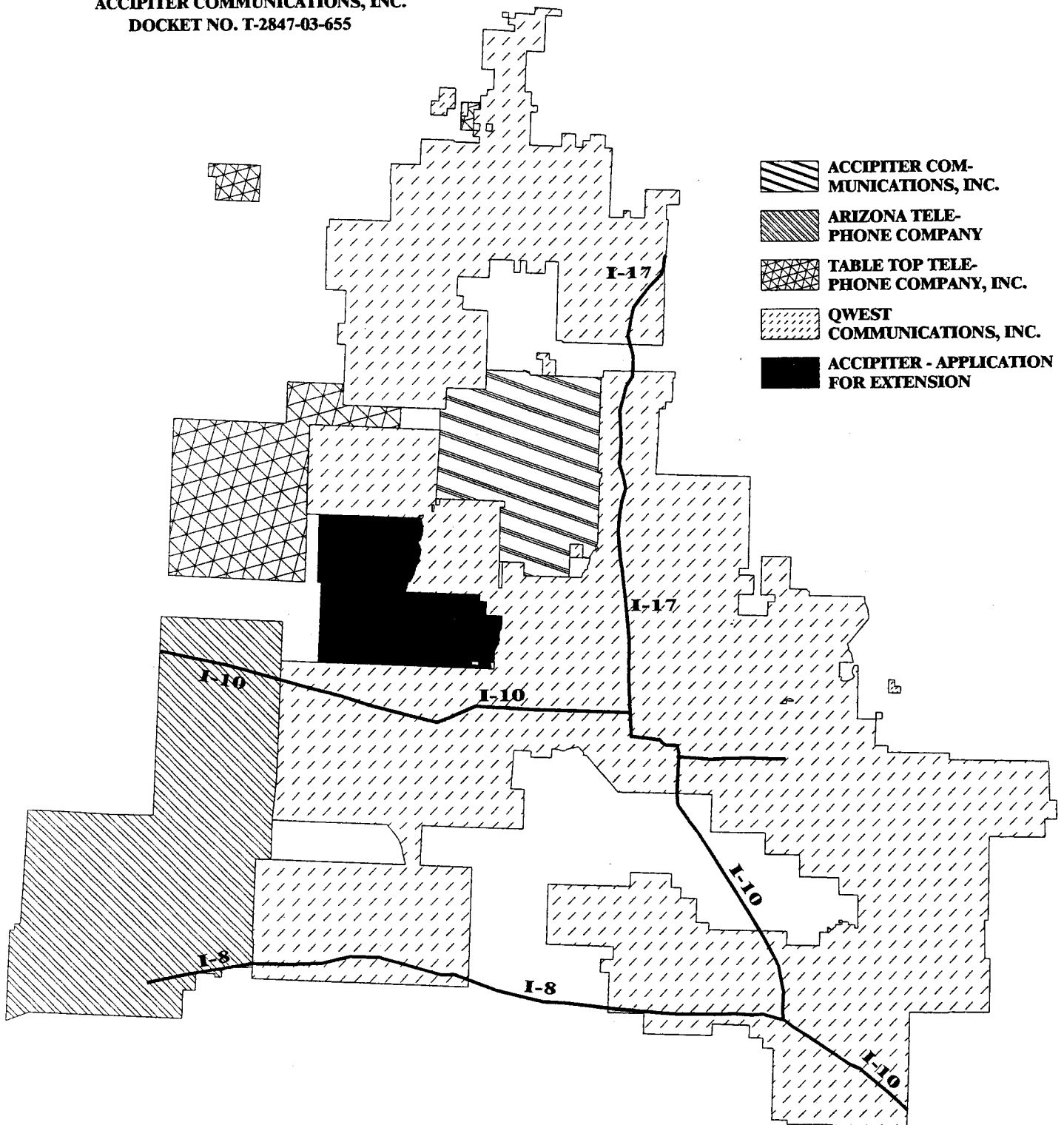
Thence north along the section line approximately 12 miles to the northwest corner of Section 6, T-4-N, R-6-W;

Thence west along the section line approximately ¾ miles to the southwest corner of Section 31, T-5-N, R-6-W;

Thence north along the section line approximately 10 miles to the northwest corner Section 18, T-6-N, R-6-W;

Thence east along the section line approximately 15 ½ miles to the point of beginning, being the north quarter corner of Section 15, T-6-N, R-4-W.

**ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-2847-03-655**



1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000	1001	1002	1003	1004	1005	1006	1007	1008	1009	1010	1011	1012	1013	1014	1015	1016	1017	1018	1019	1020	1021	1022	1023	1024	1025	1026	1027	1028	1029	1030	1031	1032	1033	1034	1035	1036	1037	1038	1039	1040	1041	1042	1043	1044	1045	1046	1047	1048	1049	1050	1051	1052	1053	1054	1055	1056	1057	1058	1059	1060	1061	1062	1063	1064	1065	1066	1067	1068	1069	1070	1071	1072	1073	1074	1075	1076	1077	1078	1079	1080	1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091	1092	1093	1094	1095	1096	1097	1098	1099	1100	1101	1102	1103	1104	1105	1106	1107	1108	1109	1110	1111	1112	1113	1114	1115	1116	1117	1118	1119	1120	1121	1122	1123	1124	1125	1126	1127	1128	1129	1130	1131	1132	1133	1134	1135	1136	1137	1138	1139	1140	1141	1142	1143	1144	1145	1146	1147	1148	1149	1150	1151	1152	1153	1154	1155	1156	1157	1158	1159	1160	1161	1162	1163	1164	1165	1166	1167	1168	1169	1170	1171	1172	1173	1174	1175	1176	1177	1178	1179	1180	1181	1182	1183	1184	1185	1186	1187	1188	1189	1190	1191	1192	1193	1194	1195	1196	1197	1198	1199	1200	1201	1202	1203	1204	1205	1206	1207	1208	1209	1210	1211	1212	1213	1214	1215	1216	1217	1218	1219	1220	1221	12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